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2 As Plaintiff was previously advised, he does not have a constitutional right to appointed
3 counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot
4 require any attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States
5 District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain
6 exceptional circumstances the court may request the voluntary assistance of counsel pursuant to
7 section 1915(e)(1). Rand, 113 F.3d at 1525.

8 Without a reasonable method of securing and compensating counsel, the court will seek
9 volunteer counsel only in the most serious and exceptional cases. In determining whether
10 “exceptional circumstances exist, the district court must evaluate both the likelihood of success on the
11 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
12 legal issues involved.” Id. (internal quotation marks and citations omitted).

13 In denying Plaintiff’s second motion for appointment of counsel in November 4, 2016, the
14 Court stated the following:

15 In the present case, the Court does not find the required exceptional circumstances. Plaintiff
16 contends that his classification as a participant in the Developmental Disability Program has
17 rendered him unable to effectively prosecute this action. While Plaintiff has alleged difficulty
18 in his potential ability to articulate his claims pro se due to his disability, the Court does not
19 find that the exceptional factors necessary to justify appointment of counsel exist in this case,
20 at the present time. Circumstances common to most prisoners, such as lack of legal education
21 and limited law library access, do not establish exceptional circumstances that would warrant a
22 request for voluntary assistance of counsel. In addition, Plaintiff’s current motion
23 demonstrates that Plaintiff (and/or his current inmate assistant) understands the process and
24 how to file documents. Furthermore, the Court cannot evaluate the likelihood of success of the
25 merits as Plaintiff’s complaint was dismissed, with leave to amend, for failure to state a
26 cognizable claim for relief. The record in this case demonstrates sufficient writing ability and
27 legal knowledge to articulate the claims asserted, even if such filings are done with the
28 assistance of other inmates. In addition, the exhibits attached to Plaintiff’s demonstrate that
Plaintiff has assistance under the Developmental Disability Program to help with access to the
law library access and materials necessary for court filings. Accordingly, Plaintiff’s second
motion for appointment of counsel is denied, without prejudice.

26 (ECF No. 24.) Plaintiff fails to present facts or law warrant reconsideration of the prior denial of
27 appointment of counsel in this case. Plaintiff simply repeats the same arguments and submits further
28 documentation which shows that although he is a participant in the Developmental Disability Program,

1 he has access to assistance within such program. Accordingly, Plaintiff's motion for reconsideration
2 of the Court's November 4, 2016, order denying his second request for appointment of counsel is
3 DENIED.

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IT IS SO ORDERED.

Dated: November 22, 2016


UNITED STATES MAGISTRATE JUDGE